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PUBLIC UTILITIES  
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of )

PUBLIC UTILITIES COMMISSION )

Instituting a Proceeding to Investigate )  
the Implementation of Feed-in Tariffs )  
\_\_\_\_\_ )

DOCKET NO. 2008-0273

**RESPONSES OF CLEAN ENERGY MAUI LLC AND  
ZERO EMISSIONS LEASING LLC  
TO HECO COMPANIES' INFORMATION REQUESTS**

**AND**

**CERTIFICATE OF SERVICE**

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of	)	
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**RESPONSES OF CLEAN ENERGY MAUI LLC AND  
ZERO EMISSIONS LEASING LLC  
TO HECO COMPANIES' INFORMATION REQUESTS**

CLEAN ENERGY MAUI LLC ("CEM") and ZERO EMISSIONS LEASING LLC ("ZEL") respectfully submit the following responses to the post-hearing Information Requests ("IRs") contained in the letter dated February 16, 2010 of Hawaiian Electric Company, Inc., Hawaii Electric Light Company and Maui Electric Company, Limited (collectively the "HECO Companies") in the above-referenced proceeding:

**HECO/ZELCEM IR-1**

The proposed queuing and interconnection procedures specify a period of twenty (20) consecutive business days for the Company to receive Applications (the "Application Period").

Please provide the following:

- (a) Please explain the purpose of limiting an "Application Period" to twenty consecutive business days.
- (b) Would the non-refundable application fee be required for all applications received in the 20 day period?
- (c) Should the "Application Period" be expanded if the aggregated cap has not been met or exceeded? Please explain.
- (d) Please clarify if it is intended for the \$5,000 non-refundable application fee to be applied to all Tiers.
- (e) How did ZEMCEL determine the basis for the \$5,000 application fee amount?

**Response:**

- (a) The purpose of the 20 day period is to create an “open” period during which persons interested in submitting applications for the first 2-year FIT cycle are obliged to submit Applications, to avoid contests among such persons to gain an advantage of being first in line when the utility begins accepting applications. This is modeled after a procedure used by the California ISO.
- (b) Yes.
- (c) No. The workability of the “Application Period” should be reviewed at the end of the first 2-year FIT cycle relative to the quantity of projects placed in service during that cycle.
- (d) ZEM/CEL do not expect to propose a different queuing procedure for Tier 3 projects.
- (e) The \$5,000 application fee is modeled after the \$5,000 application fee used by the Midwest ISO in its queuing procedure.

**HECO/ZELCEM IR-2**

Please explain the rationale that applicants are only expected to demonstrate that there is sufficient land area equal to at least 50% of that required to support the size and type of Renewable Energy Generating Facility. Why not 100%.

**Response:**

The 50% land area site control requirement is modeled after the 50% land area site control requirement used by the Midwest ISO in its queuing procedure. 50% of the land area required to support the size and type of renewable energy generating facility is an adequate milestone for determining whether the Application is complete and valid to be eligible for further processing.

**HECO/ZELCEM IR-3**

On page 3, item (6) states:

“An initial deposit of \$10,000 (the “Initial Deposit”) applicable to the cost of performing any interconnection requirements study (“IRS”) required under the FIT Reliability Standards set forth in Appendix III to this Schedule FIT in connection with the Renewable Energy Generating Facility;”

Please provide the following:

- (a) Please confirm if it is intended that the initial deposit of \$10,000 applicable to the cost of performing an interconnection requirements study is to be provided by an applicant when submitting an application for the FIT program.
- (b) Does the same initial deposit apply to applicants in all Tiers?
- (c) Would a \$10,000 deposit pose a hindrance for small renewable energy generator projects? Please explain.
- (d) Would Applications for a renewable energy generation facility that would not need an IRS be required to pay the \$10,000 deposit? Please explain.

- (e) What is the recommended form of submittal for this Deposit?

**Response**

- (a) Yes.
- (b) Yes. ZEM/CEL do not expect to propose a different queuing procedure for Tier 3 projects.
- (c) No. Under the ZEM/CEL Schedule FIT, IRS costs for Tier 1 and Tier 2 costs ultimately would be borne by the utility. The small project developer would only bear the costs of financing the initial \$10,000 deposit, and the later \$40,000 deposit, until completion of the project.
- (d) Yes. The deposit would be refunded if it is decided that an IRS is not required.
- (e) Recommended forms of submittal for the deposit would be bank draft or letter of credit.

**HECO/ZELCEM IR-4**

- (a) Please explain what defines a “complete and valid” application.
- (b) Please define under what conditions you would classify an application as valid.

**Response**

- (a) A complete and valid Application would consist of items (1) through (6) on page 1 of the ZEL/CEM Queuing and Interconnection Procedure.
- (b) An application is valid if each of items (1) through (6) on page 1 of the ZEL/CEM Queuing and Interconnection Procedure has been completed, furnished, executed and/or paid.

**HECO/ZELCEM IR-5**

Is the aggregate cap of .25% of 2008 peak demand for projects less than 20 kW intended to be the cap for all projects of this size for the first two-year FIT period?

**Response**

ZEL/CEM believes that was the intent of the Commission in setting aside 5% of the aggregate 5% cap for projects less than 20 kW in its September 25, 2009 Decision & Order at page 57.

**HECO/ZELCEM IR-6**

- (a) Has ZELCEM received any input from potential FIT applicants and/or FIT docket parties indicating a preference for a random lottery process to be utilized when allocating space in the queue is oversubscribed?
- (b) Please explain the basis for ZELCEM’s preference for a random lottery?

- (c) Does ZELCEM believe that a random lottery process is appropriate for selecting projects for the Tier 3 queue?

**Response**

- (a) No.
- (b) ZEL/CEM's prefers random lottery to prevent contests among applicants to gain an advantage of being first in line when the utility begins accepting applications.
- (c) Yes.

**HECO/ZELCEM IR-7**

- (a) Please explain in more detail the meaning of the concept of the order for processing applications as stated in the last sentence of paragraph 1 on page 13.
- (b) Is this suggestion akin to a "first come first serve" process? Please explain.

**Response**

- (a) This refers to the order in which the utility will make its decision whether an IRS is required for the facility described in the Application.
- (b) No. It is an order in which the utility will make its decision whether an IRS is required.

**HECO/ZELCEM IR-8**

Please confirm that under ZELCEM's proposal, if an applicant is not selected via the random lottery process in any Tier, the applicant will not be refunded its \$5,000 application fee.

**Response**

Yes, although it might be appropriate to insert a provision to refund all or some portion of the \$5,000 application fee to such applicants to lessen the disincentive for such applicants.

**HECO/ZELCEM IR-9**

The proposed queuing and interconnection procedures specify an aggregate cap of .25% of the 2008 peak system demand for systems less than 20 kW and 4.75% of the 2008 peak demand for systems greater than or equal to 20 kW.

Please provide the following:

- (a) Would the differences between the aggregate caps for systems less than 20 kW and greater than or equal to 20 kW put Applications for systems less than 20 kW at a disadvantage? Please explain.

- (b) Is the aggregate cap of 4.75% of 2008 peak demand for projects of 20 kW or more intended to apply to only Tier 2 projects or is it also intended to include Tier 3 sized projects?
- (c) If the answer to the above is only for Tier 2 projects, what cap is proposed for Tier 3 projects?

**Response**

- (a) No. ZEL/CEM does not see how Applications under one quota (the .25% cap), fixed by the Commission, might be at a “disadvantage” to Applications under a different quota (the 4.75% cap), also fixed by the Commission.
- (b) ZEL/CEM’s understanding is that the Commission intended the 4.75% cap, (the 5% aggregate cap less the .25% cap for Tier 1), to apply to both Tier 2 and Tier 3 projects.
- (c) See response to (b).

**HECO/ZELCEM IR-10**

The proposed queuing and interconnection procedures describe a random lottery to specify the order in which Applications continue to be processed under the queuing procedure.

Please provide the following:

- (a) Would the use of a random lottery create a disincentive for Applications? Please explain.
- (b) Would the use of the date and time an Application was submitted be an appropriate measure in determining an Application’s order in queue? Please explain.
- (c) Does the random lottery process occur at the application stage or after the company determines if an IRS is required?
- (d) If the random lottery process occurs at the application stage, is it possible that projects which do not require an IRS could be “crowded out” of the queue by projects which require an IRS? Please explain.

**Response**

- (a) No. ZEL/CEM believe it would be an incentive for Applications because Applicants would perceive the procedure as more fair, and would waste less resources on contests to gain advantage by being first to file.
- (b) No. It would be more appropriate to hold a lottery among the complete and valid Applications submitted during the 20-day “open” application period.
- (c) The random lottery occurs shortly after the close of the 20-day “open” application period, before the utility determines whether an IRS is required.
- (d) No. See response to (c).

**HECO/ZELCEM IR-11**

- (a) Under ZELCEM's proposal, what happens if the estimate for the IRS exceeds \$50,000?
- (b) Would the amount of the Additional Deposit be increased?

**Response**

- (a) Under ZEL/CEM's proposal, an Applicant would not be required to provide a deposit in excess of \$50,000. Tier 1 and Tier 2 IRS costs would be borne by the utility under the ZEL/CEM Schedule FIT. If the IRS costs of a Tier 3 project exceed \$50,000, and if the Renewable Generator does not pay the Company these costs within 3 months of receipt of a final invoice from the Company for such costs, the Generator's interconnection agreement and Standard Schedule FIT Agreement would terminate.
- (b) See response to (a)

**HECO/ZELCEM IR-12**

- (a) Are the Deposits or Letter of Credit amounts cumulative?
- (b) Will the applicant be required to provide a deposit for each milestone in the amount of \$250 per kW?
- (c) How was the \$250 per kW figure determined?

**Response**

- (a) ZEL/CEM do not understand what is meant by "cumulative." Each Deposit or Letter of Credit would be specific to the Renewable Energy Generating Facility described in the Application.
- (b) No. The deposit is 1 of 5 milestones, and an alternative to the other 4 milestones.
- (c) The \$250 per kW figure was determined as 5% of a hypothetical \$5 per Watt installation cost of a photovoltaic system.

**HECO/ZELCEM IR-13**

- (a) Are these milestones intended to apply to projects of all Tiers?
- (b) What is the basis for requiring only two of the milestones to be met before obligating the Utility to execute the Standard Schedule FIT Agreement and Interconnection Agreement?
- (c) Re: "Necessary Permits" please explain what metrics should be utilized to determine if a project is "beginning to proceed through approval process" for each of the permits ZELCEM anticipates would be required?
- (d) Re: "Regulatory Approval" please explain what facility approval would be sought from the Hawaii Public Utilities Commission and what the procedural process for seeking that approval would be?

**Response**

- (a) Yes.
- (b) The 2 out of 5 milestone requirement is modeled after the queuing procedure adopted by the Midwest ISO. Obligating the utility to execute the Standard Schedule FIT Agreement and Interconnection Agreement creates the revenue certainty that the project needs to obtain financing to complete construction of the project and place the project in service.
- (c) A project is “beginning to proceed through approval process” if applications for state or local air, water, land or hydroelectric permits are acknowledged as complete and pending by permitting authorities.
- (d) The Commission approval milestone is modeled after a milestone contained in the queuing procedure for the Midwest ISO. In the context of the proposed ZEL/CEM Schedule FIT, in which projects meeting the milestones are essentially pre-approved by the Commission, this milestone might be superfluous.

#### **HECO/ZELCEM IR-14**

In item (2), please clarify what is meant by failure to pay the company for costs of network upgrades and interconnection facilities required within 6 months of receipt of an invoice from the Company. Is this intended to apply prior to the initiation of any such work by the Company?

#### **Response**

It is intended to mean that a Renewable Energy Generator will have its Interconnection Agreement and its Standard Schedule FIT Agreement terminated if the Generator fails to pay, within 6 months of receipt of an invoice from the Company for any completed network upgrades and interconnection facilities, any outstanding amounts due to the utility under the ZEL/CEM proposed Schedule FIT for such network upgrades or interconnection facilities. It is not intended to apply prior to the initiation of any such work by the Company.

#### **HECO/ZELCEM IR-15**

Is it ZELCEM’s intent to limit the definition of force majeure only to include the events listed on pages 15-16?

#### **Response**

Yes.

#### **HECO/ZELCEM IR-16**



As noted, part one of the ZELCEM proposed reliability standards are “essentially identical” to the Rule 14H interconnection requirements. Part two is focused on curtailment of non-renewable energy to accommodate such additional renewable energy.

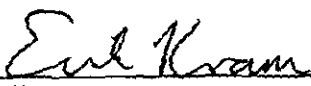
- (a) Please clarify that what is proposed in Appendix III is a one-for-one replacement of a non-renewable energy generating facility (kWh) for an equivalent kWh of generation from one of four listed FIT eligible renewable generating facility.
- (b) If so, please explain how system reliability requirements such as maintaining system stability, inertia, firm and emergency reserve levels, peaking capability and ramping will be supplied for the system under this curtailment plan.
- (c) What additional cost impacts will need to be considered with such a proposed reliability standard.

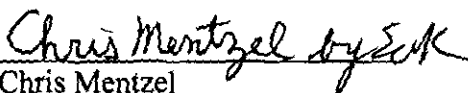
**Response**

- (a) No. What is proposed is not a one-for-one replacement of non-renewable kWh for renewable kWh. The amount of addition of renewable kWh accommodated by reduction or curtailment of non-renewable kWh will depend on the capacity factors and other generating characteristics of the renewable generation being added, the non-renewable generation being reduced or curtailed, and all the other existing renewable and non-renewable generation on the Company’s system. The purpose of the second part of ZEL/CEM’s proposed Reliability Standard is to determine the aggregate amount of renewable kWh that can be added to the grid through reduction or curtailment of non-renewable kWh, without compromising the reliability of the utility’s electric system.
- (b) See response to (a).
- (c) Cost impacts are not considered with ZEL/CEM’s proposed Reliability Standard because “reliability” is a characteristic of the system’s aggregate physical attributes (measurable in physical quantities such as frequency, voltage and current), and is not a characteristic of the economic costs (measurable in dollars) of operating the generating units that comprise part of the system. Under ZEL/CEM’s proposed Reliability Standard, which is substantially identical to the technical requirements for interconnection under the Company’s Rule 14H, the determination whether interconnection of a renewable energy generating facility will compromise the “reliability” of the Company’s electric system is based on the facility’s impact on aggregate physical attributes of the system (i.e., frequency, voltage, current), not on the economic costs of operating the renewable energy generating facility or the other generating facilities that comprise part of the system.

\* \* \* \*

DATED: Honolulu, Hawaii, February 23, 2010

  
Erik Kvam  
Chief Executive Officer  
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Chris Mentzel  
President  
Clean Energy Maui LLC

CERTIFICATE OF SERVICE

I hereby certify that I have this date filed and served the original and eight copies of the foregoing **RESPONSES OF CLEAN ENERGY MAUI LLC AND ZERO EMISSIONS LEASING LLC TO HECO COMPANIES' INFORMATION REQUESTS** in Docket No. 2008-0273, by hand delivery to the Commission at the following address:

CARLITO CALIBOSO  
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I further certify that copies of the foregoing **RESPONSES OF CLEAN ENERGY MAUI LLC AND ZERO EMISSIONS LEASING LLC TO HECO COMPANIES' INFORMATION REQUESTS** have been served upon the following parties and participants by causing copies hereof to be hand delivered, mailed by first class mail or electronically transmitted to each such party as follows:

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